IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 190 of 1991
TO
FIRST APPEAL No.199 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SPECIAL LAND ACQUISITION OFFICER
Versus
GUMANSING RANMALSANG

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Appearance :
Mr. N.D. Gohil, Asst. GOVERNMENT PLEADER for Appellant(s) : 1,
MR NITIN M AMIN for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE P.B.MAJMUDAR

Date : 24/07/2006

ORAL JUDGMENT

These appeals are directed against common judgment and award dated 16th April 1990 passed by the learned Extra Assistant judge, Kheda at Nadiad in Land Acquisition Reference Cases No. 295/86 to 304/86. By the impugned award, the learned Judge partly allowed the References and awarded additional amount of Rs.4-85 per sq.mtr as against the award of Rs.1-25 per sq. mtr determined by the Land Acquisition officer.

For the purpose of Mahi canal project, lands in question were sought to be acquired and notice under section 4 of the Land Acquisition Act [hereinafter referred to as the Act] was issued on 31-1-85 and notification under section 6 of the Act was issued on 2.1.1986. After serving individual notices, ultimately, the Land Acquisition Officer, by his award dated 31.3.86, fixed Rs.1-25 per sq. mtr as the market value for the lands in question. According to the applicants, they were entitled to get Rs.10/- per sq. mtr. Since the claimants were not satisfied with the award of the Land Acquisition Officer, they made a request for Reference, and accordingly, the matters

were referred under section 18 of the Act. After hearing the parties and considering the evidence, the Reference Court passed an award, awarding additional amount of Rs.4-85 per sq.mtr as market value.

The learned Reference Judge has taken income of the agricultural produce for fixing the market value. After considering the documentary evidence on record as well as appreciating oral evidence, the learned Judge found that the farmers used to take two to three crops of paddy, wheat and millet every year. It is found that so far as income from Paddy is concerned, the farmers used to harvest 264 maunds per hector which was sold at Rs.50/- per maund, and the net income from paddy crop per Hector was assessed at Rs.13,200/- per year. As regards the crop of Wheat, after considering evidence, the farmers used to harvest 40 maunds per vigha, i.e. 176 maunds per hector, which was sold at Rs.40/- per maund, and the net income from wheat crop per Hector was assessed at Rs.7040/- per year. Similarly, so far as Millet crop is concerned, the farmers used to harvest 40 maunds per vigha, i.e. 176 maunds per hector, which was sold at Rs.40/- per maund, and the net income from millet crop per Hector was assessed at Rs.7040/- per year.

The learned Judge of the Reference Court, after totalling the income and dividing it by three, held that the total average income per hector would come to Rs.9090/-, and deducting 1/3rd therefrom towards expenses, held that the net income per Hector would be Rs.6067/- i.e. about Rs.6-10 per sq. mtr. Accordingly the market value of the lands was assessed at Rs.6-10 per sq. mtr, i.e. Rs.610/- per Are.

Learned advocate for the respondents, Mr. Nitin Amin, submitted that by virtue of the aforesaid order of the Reference Court, the additional amount payable in each case is small. As per the Schedule annexed to the award, the additional amount payable are as under:

Sl.No.	LAR No.	Additional Amount Awarded
1.	295/86	Rs. 4,301-95
2.	296/86	Rs. 6,363-30
3.	297/86	Rs. 232-80
4.	298/86	Rs.12,028-00
5.	299/86	Rs. 5,897-60
6.	300/86	Rs. 1,552-00
7.	301/86	Rs. 7,294-40
8.	302/86	Rs. 2,328-00

9. 303/86 Rs. 4,656-00

10. 304/86 Rs. 232-80

Learned advocate for the respondent relied on the judgment of the learned Single Judge in F.A. No. 1117 of 2003 [Dy. Collector & LAQ Officer vs. Heirs of deceased Premji Harjibhai Devshi Premjibhai]. In the said judgment, in paragraphs 3 to 5, the learned Single Judge held as under :-

> “3. It may be noted that learned single Judge of this Court as well as a Division Bench of this Court in number of matters have dismissed appeals filed by the appellant challenging the awards of the reference courts on the ground of smallness of the amount. The Division Bench of this Court (Coram: M.H. Kadri & C.K. Buch, JJ.) in First Appeal Nos.6765 of 1999 to 6804 of 1999 vide judgment dated 29.3.2000 has considered an amount of RS.25,500/- awarded to the claimant, without considering other statutory benefits, as small amount. In the said judgment it has been observed that it is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land References cases is less than Rs.35,000/-, appeal should be dismissed on the ground that it involves petty claim.
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> 4. Applying the principles laid down by the Division Bench of this Court in the judgment recorded in First Appeal Nos.6765 of 1999 to 6804 of 1999 to the facts of the present case, in the instant case, the original amount awarded to the respondent is Rs.11,425/- plus statutory benefits, which comes in all to Rs.16,223.50 and, therefore, this amount being a small amount, the appeal deserves to be dismissed on the ground of petty claim.
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> 5. For the foregoing reasons, the appeal

> fails and is accordingly dismissed with no order as to costs."

Learned Assistant Government Pleader frankly submitted that in none of the matters, the amount involved is large, and it is a matter of fact that all appeals are filed against small amounts.

Having gone through the case, I am of the view that the Reference Court has rightly arrived at the market value by following the yield method. Even otherwise, the additional amount awarded by the Reference Court is small and do not warrant any interference by this Court.

Considering the aforesaid aspects of the matter, the order of Reference Court is not required to be disturbed by this Court, both on the ground of smallness of the amount involved as well as on the ground that the learned Reference Court has rightly awarded the market value by following the yield method, i.e. fixing the market value on the basis of the average income of the agricultural produce.

In the result, the appeals are dismissed.

Registry to return the R & P to the Reference Court forthwith.

[P. B. MAJMUDAR, J.]

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